

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BILL M., by and through his father	)	4:03CV3189
and natural guardian, William M., et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
NEBRASKA DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES	)	
FINANCE AND SUPPORT, et. al.,	)	
	)	
Defendants.	)	

Defendants took an interlocutory appeal of a portion of this court's order (filing 66) denying Defendants' motion to dismiss –that which addressed the claim brought under Title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12131 et seq. This matter is now before the court upon the judgment of the Court of Appeals (filing 104), remanding this cause for proceedings consistent with the opinion of the Court of Appeals (filing 103, reported at 408 F.3d 1096 (8<sup>th</sup> Cir. 2005)).

For the reasons stated by the Court of Appeals, 408 F.3d at 1098-1100, I will dismiss the first claim for relief of the Amended Complaint (filing 23), which asserts a violation of Title II of the ADA.

IT IS ORDERED that the first claim for relief of the Amended Complaint (filing 23), which asserts a violation of Title II of the ADA, is dismissed with prejudice.

September 2, 2005.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge